



THE ICO'S CALL FOR VIEWS ON DIRECT MARKETING CODE OF PRACTICE

RESPONSE BY THE INSTITUTE OF DEVELOPMENT PROFESSIONALS IN EDUCATION (IDPE)

INTRODUCTION

The Institute of Development Professionals in Education (IDPE) is the primary organisation representing professional fundraisers in UK schools from both the state and independent sectors.

Schools are committed to complying with the new data protection legislation and welcome the opportunity to respond to the ICO's call for views on the direct marketing code of practice.

- 1. The code will address the changes in data protection legislation and the implications for direct marketing. What changes to the data protection legislation do you think we should focus on in the direct marketing code?**

Given recent changes to data protection legislation, all schools have been reviewing how they process personal data to ensure compliance. For our members, a key area where they have demanded further clarity is around how the Privacy and Electronic Communications Regulations (PECR) work with the new data protection legislation. We therefore welcome the development of the ICO's direct marketing code of practice to include reference to the new data protection legislation. However, IDPE members have also identified specific areas within the direct marketing code of practice (as outlined below), where further clarity is sought.

Definition of direct marketing

Whilst the direct marketing code of practice includes a definition of direct marketing, IDPE members have requested further clarity and examples to support understanding of this definition, particularly around the difference between direct marketing and relationship-building. For example:

- A thank you by e-mail – an unsolicited e-mail of thanks for a donation, with any reference to the difference a donation would make to the school, could be classed as direct marketing given that it would be '*promoting the aims of not-for-profit organisations*'? Yet, thanking a supporter (or supporters) for their donation (or for any other form of support such as volunteering) is seen as best practice within the Fundraising Regulator's Code of Fundraising Practice. Likewise, saying thank you is essential for building ongoing relationships with supporters, and in the context of development is expected, given the supporter is likely to have an existing relationship with the school.

- An e-mail 'update' from a head or governor – the focus of such updates may be to inform the school community of essential information, but could also include information on forthcoming events and activities within the school, again potentially '*promoting the aims of not-for-profit organisations*', would the expectation be that two separate e-mails are sent if consent for direct marketing communications has not been received? Alongside requiring further resource, this would potentially not be in the best interests of individuals receiving the updates, as they then potentially receive numerous communications rather than a single e-mail.

The current direct marketing code of practice focusses on unsolicited direct marketing to a mass market, who are essentially the general public. Within the context of schools' development, the majority of direct marketing communication will be to an audience with an existing relationship with the school, i.e. pupil, parent, alum, etc, with the purpose of strengthening these individual relationships (not unsolicited direct marketing to the general public).

In some instances however, this communication may be unsolicited, for example contacting an alum some years after he or she left school. However, members of a school community often welcome such communication, even expect this from their school.

'I did not receive one single objection to ... the first piece of marketing material which was sent out ... by way of reconnecting former pupils both to the college and each other... one former pupil wrote back to say it had been 60 years since her had heard from the college but how nice it was to hear from us again.' (member school).

By building relationships with individuals, be it customers/clients in the context of business to business marketing or supporters within the context of fundraising or schools' development, this enables organisations to tailor direct marketing approaches and acknowledge individuals' communication preferences. IDPE members would welcome recognition within the guide of the difference between direct marketing to a mass audience and direct marketing to individuals, and the difference between communicating with those who have no relationship with an organization, i.e. the general public, to communicating with those who know and 'belong' in some way to an organization.

Privacy notices

With the GDPR's growing emphasis on transparency, IDPE members have requested further clarity within the direct marketing code of practice, on what to include within their privacy

notice regarding direct marketing activities. For example, is it sufficient to say that a school will use an individual's data for direct marketing purposes (and state the legal bases for processing their personal data)? Or is further detail required, such as the school will process personal data, to send e-newsletters, to send invites to fundraising events, to request donations, as part of annual telephone campaigns, etc.

Within many organisations such as schools, there will be multiple communications which could be seen as processing personal data for direct marketing purposes, i.e. an update from the head, an invite to a fundraising event, and these will potentially change as an individual's relationship with the school changes, i.e. current parent to former parent, pupil to alumnus. IDPE members have requested further guidance on how can they can ensure transparency around their direct marketing activity, and whether this should be through an individual or multiple privacy notices.

Telephone Preference Service (TPS)

IDPE members have expressed further clarity on the Telephone Preference Service (TPS) in relation to direct marketing approaches. The TPS is activated by the registration of the telephone number, not the individual or the household. Schools often hold numerous telephone numbers for one individual, and it is likely only one of these numbers will be registered with the TPS. IDPE members have requested further guidance on how to manage direct marketing approaches in these circumstances, for example, is it possible to still contact the individual to make direct marketing approaches via a telephone number which is not registered with the TPS?

Further guidance

In point 53, there is a reference to further guidance for political parties, however there is no reference to any other guidance available to support the charitable sector. IDPE members have suggested the direct marketing code of practice also reference the Fundraising Regulator's Code of Fundraising Practice.

Likewise, whilst we recognize that the direct marketing code of practice cannot reference all guidance or all umbrella organisations who offer support in implementing best practice, we would welcome an appendix to the direct marketing code of practice, with further information on umbrella organisations, such as IDPE.

- 2. Apart from the recent changes to data protection legislation are there other developments that are having an impact on your organisation's direct marketing practices that you think we should address in the code?**

Yes.

- 3. If yes please specify**

Prospect research

Whilst the current code includes reference to lead generation and marketing lists, there is no reference to prospect research, often carried out by charitable organisations, including schools, to inform their direct marketing approaches and fundraising asks. Such research enables development professionals to personalize their communication with supporters; ensuring that their direct marketing is relevant, and that any fundraising asks are appropriate and tailored to the motivations and financial means of their supporters or potential supporters. Furthermore, researching donors is required to ensure due diligence responsibilities are fulfilled, both from the perspective of verifying donations are ethically acceptable, and in ensuring return on investment, through targeted fundraising campaigns.

There has been much debate over prospect research, particularly around wealth screening and the use of publicly available information. Whilst some sector guidance has been developed to support development and fundraising professionals, by IDPE, in partnership with the Independent Schools' Bursar's Association (ISBA), *GDPR: A Practical Guide*, and by the Institute of Fundraising, in partnership with Bates Wells Braithwaite and More Partnership, *Connecting people to causes: a practical guide to fundraising research*, IDPE members would welcome further clarity on prospect research within the direct marketing code of practice.

Repeat requests for consent/suppression lists

The current code on direct marketing says that *'organisations must not contact people on a suppression list at a later date to ask them if they want to opt back in to receiving marketing.'* and whilst it recognizes that people can change their minds, it does not recognize that in some instances, where a pre-existing relationship exists, that future communication may be welcomed.

In schools, school leavers are requested to give their consent to receiving communications (including the option of fundraising material) from their school, however in many cases alumni do not engage with the school until they are much older (for example after university). If a school leaver chooses not to provide affirmative consent to process their personal data at this point or in fact 'opts out' and is added to a suppression list, does this mean that there can be no future contact with said alumnus? As cited under question 1, in many cases there is an expectation that the school will get back in touch, even if an alumnus has essentially 'opted out'. IDPE members would welcome further examples on when it may be appropriate to re-connect with an individual who has in the past 'opted out', within the direct marketing code of practice.

4. We are planning to produce the code before the draft ePrivacy Regulation (ePR) is agreed. We will then produce a revised code once the ePR becomes law. Do you agree with this approach?

Whilst IDPE members are aware of future changes to ePrivacy Regulation, they welcome the revision of the code to improve understanding and clarify best practice in direct marketing, under the new data protection legislation.

5. If no please explain why you disagree

N/A

6. Is the content of the ICO's existing direct marketing guidance relevant to the marketing that your organisation is involved in?

IDPE members stated that whilst some of the existing direct marketing guidance is relevant to them as development professionals, further examples on direct marketing and more specifically fundraising, within the section for charities, political parties and other not-for-profit organisations, would be helpful.

7. If no what additional areas would you like to see covered?

Charitable organisations

Whilst the existing direct marketing code of practice does include a section specifically for charities, political parties and other not-for profit organisations, further examples of direct marketing within charitable organisations, and more specifically, fundraising and the different types of fundraising approaches, i.e. major gifts, regular giving, would support understanding, and IDPE would be happy to support the ICO in identifying further examples to include.

Membership organisations

Schools, unlike the majority of charities who engage with the general public and fundraise from a mass market, do not generally process personal data of unknown members of the public. Schools have small databases of individuals who are connected to the school in some way, i.e. current or former students (alumni), parents or staff. They are in effect membership organisations, and there is a very different dynamic between schools and their 'members', to charities who fundraise from or businesses who are marketing to, the general public. Whilst IDPE members recognize that the direct marketing guidance cannot cover direct marketing across all different types of organisation, examples of direct marketing within the context of membership organisations such as schools, where there are existing, potentially longstanding relationships with individuals, would be welcomed.

8. Is it easy to find information in our existing direct marketing guidance?

IDPE members feedback is that the direct marketing code of practice is clear and that they could easily find the information they required (other than the suggested additions/requests for clarity mentioned in previous questions).

9. If no, do you have any suggestions on how we should structure the direct marketing code?

N/A

- 10. Please provide details of any case studies or marketing scenarios that you would like to see included in the direct marketing code.**

Please see responses to previous questions.

- 11. Do you have any other suggestions for the direct marketing code?**

N/A

- 12. Are you answering these questions as?**

On behalf of member schools.

- 13. Please provide the name of the organisation that you are representing.**

Institute of Development Professionals in Education (IDPE).

- 14. We may want to contact you about some of the points you have raised. If you are happy for us to do this please provide your email address:**

IDPE would welcome the opportunity to support the ICO in developing the direct marketing code of practice.

[REDACTED] IDPE

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SUMMARY

Schools are keen to comply with data protection legislation, and to ensure that they adhere to the direct marketing code of practice. However, IDPE members would welcome further guidance and examples that are relevant to them as fundraisers and as essentially, membership organisations, communicating with individuals who have existing relationships with the school.

The current direct marketing code of practice focuses on direct marketing to a mass audience. It does not recognize the importance of direct marketing to relationship-building, nor the impact of a more personalised approach, one which is appropriate and relevant to the individual, rather than the masses.

IDPE is keen to work with the ICO to support schools raising funds, with understanding and implementing the updated direct marketing code of practice.